

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREGORY TIFT,

Defendant.

CASE NO. CR20-0168-JCC

ORDER

This matter comes before the Court on Defendant Gregory Tift's motion to compel the Government to produce personnel files. (Dkt. No. 123.) Having thoroughly considered Defendant's motion and the relevant record, the Court hereby DENIES the motion without prejudice for the reasons explained herein.

Defendant is charged with Conspiracy to Distribute Controlled Substances, and Possession of Controlled Substances with Intent to Distribute, (Dkt. No. 3 at 1), and is representing himself *pro se*. (See Dkt. No. 37.) Defendant requests that the Court order the Government to produce the personnel files of law enforcement officers who will testify at trial so he may examine them for information pertinent to cross-examination.¹ (Dkt. No. 123 at 2.)

¹ Defendant originally requested the personnel files of all law enforcement personnel who will testify at trial. (See Dkt. No. 123 at 1.) Defendant appears to have abandoned this argument in his reply, instead requesting only federal employees' file. (See Dkt. No. 128 at 3–4.) The

1 The Government recognizes its obligation under *U.S. v. Henthorn* to examine personnel
 2 files of law enforcement witnesses, and to turn these materials over to the Court *in camera* or to
 3 Defendant if they contain information relevant to Defendant's case. 931 F.2d 29, 31 (9th Cir.
 4 1991); (*see* Dkt. No. 124 at 2.) The Government is obligated to disclose these materials when
 5 prosecutors have "knowledge of and access to the documents sought by the defendant." *U.S. v.*
 6 *Shyrock*, 342 F.3d 948, 983 (9th Cir. 2003) (citing *U.S. v. Santiago*, 46 F.3d 885, 893 (9th Cir.
 7 1995)). Defendant requests that these documents be turned over without delay. (Dkt. No. 128 at
 8 4.) In response, the Government details its procedure for handling such requests (*see* Dkt. No.
 9 124 at 2) and will presumably turn these materials over to Defendant as soon as it has
 10 "knowledge of and access to the documents" under this procedure.

11 Defendant's motion is premature. The Government has acknowledged its *Brady*
 12 obligations and expresses its intent to comply. Therefore, there is no need to order that it do so at
 13 this time. If the Government fails to provide these materials by the time of trial, Defendant may
 14 renew this motion. *See U.S. v. Davenport*, 753 F.2d 1460, 1462 (9th Cir. 1985) (finding no
 15 violation of *Brady* where defendant had access to requested information from the beginning of
 16 trial and made use of it in cross-examining a witness).

17 Accordingly, Defendant's motion (Dkt. No. 123) is DENIED without prejudice.

18 DATED this 29th day of July 2022.

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22 John C. Coughenour
 23 UNITED STATES DISTRICT JUDGE
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25 Court notes that, as stated by the Government, (*see* Dkt. No. 124 at 3), and seemingly conceded
 26 by Defendant, (*see* Dkt. No. 128 at 2), the Government's obligation under *Henthorn* does not
 extend to personnel files under the control of state officials. *See U.S. v. Dominguez-Villa*, 954
 F.2d 562, 565–66 (9th Cir. 1992).